

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY

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)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	
ASHLAND INC.,)	
)	
Defendant.)	
_____)	

COMPLAINT

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("U.S. EPA"), alleges:

NATURE OF THE ACTION

1. This is a civil action brought against Defendant, Ashland Inc. ("Ashland"), pursuant to Section 113 of the Clean Air Act ("the CAA"), 42 U.S.C. § 7413, for violations of the State Implementation Plans ("SIPs") approved under the Act for the states of Kentucky and Ohio. In addition, Ashland has violated CAA regulations at its Canton, Ohio, Catlettsburg, Kentucky, and St. Paul Park, Minnesota, facilities. Further, Ashland is in violation of the Clean Water Act (the "CWA"), 33 U.S.C. §§ 1251, et seq., the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901, et seq., and the Emergency

Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. §§ 11001, et seq., state permits, and related state and federal regulations. The United States seeks an injunction ordering Defendant to comply with these permits, Acts, and laws and regulations promulgated thereunder, and civil penalties for Defendant's past and ongoing violations of these Acts.

JURISDICTION AND VENUE

2. This Court has jurisdiction of the subject matter of this action pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Section 309(b) of the CWA, 33 U.S.C. § 1319(b), Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Section 325(b) and (c) of EPCRA, 42 U.S.C. § 11045(b) and (c), and pursuant to 28 U.S.C. §§ 1331, 1345, and 1355.

3. Venue is proper in this District pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Section 309(b) of the CWA, 33 U.S.C. § 1319(b), Section 3008(a)(1) of RCRA, 42 U.S.C. § 6928(a)(1), Section 325(b) and (c) of EPCRA, 42 U.S.C. § 11045(b) and (c), 28 U.S.C. § 1391(c), because Ashland does business in this District, and 28 U.S.C. § 1395(a) because this is an action for a fine or penalty and Ashland is found in this District.

NOTICES

4. On May 19 and 20, 1998, the respective Directors of the Air Enforcement Divisions of the Environmental Protection Agency's Region IV and V offices issued Notices of Violation to Ashland for the company's violations of certain aspects of the CAA at its Catlettsburg, Kentucky, and Canton, Ohio, facilities. Pursuant to Section 113(a)(1) and (b)(1) of the CAA, 42 U.S.C.

§ 7413(a)(1) and (b)(1), the Director provided a copy of the Notices of Violation to the states of Kentucky and Ohio.

5. The 30-day period established in Section 113 of the CAA, 42 U.S.C. § 7413, between issuance of a notice of violation and commencement of a civil action has elapsed for the Notices of Violation.

6. The United States has given notice of the commencement of this action to the states of Kentucky, Minnesota, and Ohio (hereinafter collectively referred to as the "States") as required by Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

THE DEFENDANT

7. Ashland is a corporation incorporated under the laws of the Commonwealth of Kentucky, with its principal place of business in Russell, Kentucky.

8. Ashland owned and operated petroleum refineries in, among other places, Catlettsburg, Kentucky, St. Paul Park, Minnesota, and Canton, Ohio. These facilities produced a variety of petroleum products. The allegations set forth below apply to these three facilities only.

9. Ashland is a "person" within the meaning of Section 302(e) of the CAA, 42 U.S.C. § 7602(e), Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

THE CLEAN AIR ACT - STATUTORY AND REGULATORY BACKGROUND

State Implementation Plans

10. The Clean Air Act established a regulatory scheme designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population. 42 U.S.C. § 7401(b)(1).

11. Section 110(a) of the CAA, 42 U.S.C. § 7410(a), requires each State to adopt and submit to the Administrator for approval, a plan for the implementation, maintenance, and enforcement of primary ambient air quality standards as promulgated by the Administrator.

12. The Commonwealth of Kentucky and the State of Ohio have submitted such State Implementation Plans ("SIPs"), which have been approved by EPA at 40 C.F.R., Part 52, Subparts S and KK.

Kentucky's SIP

13. Kentucky Air Regulation 401 KAR 50:055, provides that the owner or operator of a facility shall notify the Kentucky Division for Air Quality ("KDAQ") as soon as possible when air pollution emissions may be in excess of the standards. Furthermore, 401 KAR 50:055 requires that such notice shall be in writing when requested by the KDAQ.

14. Kentucky Air Regulation 401 KAR 61:045, provides that any oil-effluent water separator shall be equipped with a floating roof or shall be equipped with a vapor recovery system. Furthermore, 401 KAR 61:045 requires that a floating roof be equipped with a closure seal or seals to close the space between the roof edge and the separator wall.

15. Kentucky Regulations 401 KAR 50:055 and 61:045, are part of the federally-approved and federally-enforceable Kentucky

SIP. These regulations were adopted as part of the Kentucky SIP upon approval by EPA in the January 25, 1980, Federal Register (45 Fed.Reg. 6092).

16. Ashland operated a petroleum refinery at its facility located in Catlettsburg, Kentucky, which contained source operations subject to the Kentucky SIP regulations.

Ohio's SIP

17. The Ohio SIP includes requirements that air contaminant emission sources be regulated by the State of Ohio Rules and Regulations and permits to operate and construct issued by the state.

18. The Ohio Administrative Code ("OAC") 3745-17-07(A)(1) requires that visible particulate emissions from any stack not exceed twenty percent opacity, as a six-minute average, with the following exceptions: visible particulate emissions from any stack may exceed twenty per cent opacity, as a six-minute average, for not more than six consecutive minutes in any sixty minutes, but shall not exceed sixty percent opacity, as a six-minute average, at any time. This rule became effective and federally enforceable when federally approved on June 27, 1994 (59 Fed. Reg. 27464).

19. The OAC 3745-35-02(A) requires that no person may cause, permit, or allow the operation or other use of any air contaminant source without applying for and obtaining a permit to operate from the Ohio Environmental Protection Agency.

20. The Ohio Administrative Code ("OAC") 3745-21-09 regulates the control of emissions of volatile organic compounds

from stationary sources. Further, OAC 3745-21-09(T) requires that any owner or operator of a petroleum refinery shall repair and retest any leaking component which is tagged and identified in accordance with the rule, as soon as possible but no later than 15 days after the leak is found unless the leaking component cannot be repaired until a process turn around occurs.

21. Ashland operated a petroleum refinery in Canton, Ohio, which contained source operations subject to the Ohio SIP regulations.

New Source Performance Standards

22. Section 111(b) of the CAA, 42 U.S.C. § 7411(b), authorizes the Administrator to promulgate regulations for new stationary sources which fall within categories of sources which may be significant sources of air pollution. These standards (New Source Performance Standards) have been promulgated at 40 C.F.R. Part 60. Pursuant to Section 111(e) of the CAA, 42 U.S.C. § 7411(e), after the effective date of any standard promulgated pursuant to this section, it is unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

23. New sources at Ashland's Canton, Catlettsburg and St. Paul Park facilities are regulated by the following EPA regulations listed in 40 C.F.R. Part 60 [New Source Performance Standards ("NSPS")].

24. Subpart A requires that owners and operators maintain and operate affected facilities including associated air pollution control equipment in a manner consistent with good air

pollution control practice for minimizing emissions. 40 C.F.R. § 60.11(d).

Subpart J

25. Subpart J provides Standards of Performance for Petroleum Refineries. 40 C.F.R. §§ 60.100 - 109. These provisions apply to fluid catalytic cracking unit catalyst regenerators ("FCCUs"), fuel gas combustion devices, and certain Claus sulfur recovery plants.

26. An owner or operator subject to this subpart shall not burn in any fuel gas combustion device any fuel gas that contains hydrogen sulfide in excess of 230 mg/dscm. 40 C.F.R. § 60.104(a)(1).

27. An owner or operator subject to Subpart J shall install, calibrate, maintain, and operate a continuous monitoring system for a FCCU which continuously monitors and records the concentration by volume of carbon monoxide emissions into the atmosphere. 40 C.F.R. § 60.105(a)(2).

28. Further, the owner or operator subject to Subpart J shall, for Claus sulfur recovery plants with oxidation control systems or reduction control systems followed by incineration, install an instrument for continuously monitoring and recording the concentration of sulfur dioxide emissions into the atmosphere. The monitor shall include an oxygen monitor for correcting the data for excess air. 40 C.F.R. §§ 60.13(e) and 60.105(a)(5).

Subpart GGG

29. Subpart GGG establishes Standards of Performance for

Equipment Leaks of Volatile Organic Compounds ("VOCs") in Petroleum Refineries. 40 C.F.R. §§ 60.590 - 593.

30. Facilities subject to these provisions must comply with the standards set forth in Subpart VV, 40 C.F.R. §§ 60.482-1 - 482-10. 40 C.F.R. § 60.592(a).

31. Pursuant to permits issued to Ashland and these regulations, equipment in VOC service at the Canton, Catlettsburg and St. Paul Park facilities, including pumps, compressors, and valves, are to be inspected for leaks on a quarterly or annual basis.

32. In addition, certain equipment, including valves, pumps, pressure reliefs, sampling connection systems, open-ended valves or lines, and flanges or other connectors, in VOC service are subject to NSPS Subpart GGG. This regulation initially requires that pumps and valves be inspected for leaks on a monthly basis, but this period may be extended to a quarterly basis. The standard also requires daily or weekly visual checks for leaks. To conduct the inspections, Ashland is required to use an organic vapor analyzer, and a leak is detected if a piece of equipment exhibits a reading of 10,000 ppm or greater.

Subpart QQQ

33. Subpart QQQ provides Standards of Performance for VOC Emissions from Petroleum Wastewater Systems. 40 C.F.R. §§ 60.690 - 699. These standards apply to wastewater individual drain systems, oil-water separators, and aggregate systems constructed or modified after May 4, 1987. 40 C.F.R. § 60.690.

34. These regulations are designed to reduce the emission

of volatile organic compounds from petroleum wastewater systems.
53 Fed. Reg. 47623, November 23, 1988.

National Emission Standards for Hazardous Air Pollutants

35. Pursuant to Section 112(b) of the CAA, 42 U.S.C. § 7412(b), the EPA Administrator is required to list air pollutants determined to be hazardous and to promulgate regulations establishing national emission standards for those hazardous air pollutants ("NESHAP").

36. A "hazardous air pollutant" is an air pollutant that "causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness." 42 U.S.C. § 7412(a)(1).

37. Benzene is listed as an hazardous air pollutant. 42 U.S.C. § 7412(b)(1). Benzene is a known carcinogen.

38. Section 112(q)(1) of the CAA, 42 U.S.C. § 7412(q)(1), provides that any standard under the section in effect before November 15, 1990, shall remain in force and effect after such date.

39. Section 112(i)(3)(A) of the CAA, 42 U.S.C. § 7412(i)(3)(A), provides that after the effective date of any emissions standard, limitation, or regulation promulgated under this section and applicable to a source, no person may operate such source in violation of such standard.

Subpart FF

40. Regulations governing National Emission Standards or Benzene Waste Operations are promulgated at 40 C.F.R. § 61.340 -

358. These regulations apply to owners and operators of, among others, petroleum refineries. 40 C.F.R. § 61.340(a).

41. Subpart FF regulations are intended to control benzene emissions released during the collection and treatment of waste streams containing benzene.

42. Facilities exceeding the regulatory threshold of 10 Megagrams per year (Mg/yr) of benzene from facility waste are required to install control equipment. 40 C.F.R. § 61.342(b).

43. Control equipment is required on all waste benzene sources, including the tanks, collection sewers, oil/water separators, treatment processes, and closed vent systems. 40 C.F.R. §§ 61.343, 61.346, 61.347, 61.348, and 61.349. The control equipment must remove benzene from the waste stream to a level less than 10 ppm by weight. 40 C.F.R. § 61.348(a)(1)(i).

44. Pursuant to 40 C.F.R. § 61.342(a), facilities are required to determine a Total Annual Benzene ("TAB") quantity from waste which is compared to the regulatory threshold of 10 Mg/yr. The TAB quantity is calculated by summing each of the individual benzene sources. 40 C.F.R. § 61.355(a)(1). The benzene quantity contribution from each waste stream is determined by multiplying the benzene concentration by the annual waste quantity.

45. Benzene in wastes generated by groundwater remediation is excluded when calculating the TAB quantity. 40 C.F.R. § 61.342(a)(3). However, if the TAB quantity exceeds the 10 Mg/yr threshold, then groundwater sources must be controlled as any other waste benzene source. 40 C.F.R. § 61.342(a)(3).

46. Subpart FF requires that Ashland provide an annual report to the Administrator summarizing inspections during which detectable emissions of benzene are measured or a problem which could result in a benzene emission is found. 40 C.F.R. § 61.357(d)(8).

47. Subpart FF further requires, among other things, that either the concentration level of the organic compounds or the concentration level of benzene in the exhaust vent stream from the carbon adsorption system be monitored on a regular schedule. 40 C.F.R. § 61.354(d).

FIRST CLAIM FOR RELIEF

CLEAN AIR ACT VIOLATIONS

48. The allegations in paragraphs 1 - 47 are repeated here by reference.

THE CANTON FACILITY

49. From October 1990 to the present, Ashland failed to have water seals on each drain within a new individual drain system in violation of 40 C.F.R. § 60.692-2(a), Subpart QQQ.

50. Ashland's fluid catalytic cracking unit, on at least 12 occasions since May 4, 1994, emitted VOCs at an opacity in excess of its emission limit of 20% and failed a performance test regarding the particulate emission limit of 77 lbs/hr in violation of its Ohio Permit P002, Ohio Regulation 3745-17-07(A) and 11, and 40 C.F.R. § 52.1870(c)(97)(i)(E) and (I).

51. From October 1990 to the present, Ashland failed to submit initial and subsequent semi-annual reports certifying compliance and completion of the inspections for the affected

Individual Drain Systems in violation of 40 C.F.R. § 60.698(b).

52. From January 1994 to the present, Ashland failed to repair leaking pieces of equipment in VOC service within fifteen days and failed to report all pieces of leaking equipment in VOC service not repaired within fifteen days on the monitoring reports in violation of Ohio Permit P013, Ohio Regulation 3745-21-09(T), and 40 C.F.R. §§ 52.1870(c)(96)(i)(C) and 60.592.

53. From April 1, 1993 to March 1996, Ashland violated 40 C.F.R. § 60.11(d) on numerous occasions when its percentage of excess sulfur dioxide (SO₂) emissions were unreasonably high.

54. Between January 1, 1995 and March 14, 1996, Ashland violated 40 C.F.R. §§ 60.104(a)(2)(I) and 60.105, Ohio Administrative Code ("OAC") Section 3745-18-06(H), and Ohio permits P011 and P016 on at least eight separate occasions when its sulfur recovery units ("SRUs") released SO₂ emissions in excess of the 250 ppm limit.

55. On October 5 and 7, 1994 and February 17, 1994, Ashland violated 40 C.F.R. §§ 60.11(d) and 60.104(a)(1) and OAC Section 3745-18-06(H), by allowing its CCR heaters to burn fuel containing hydrogen sulfide (H₂S) in excess of the allowable concentration of 160 ppm.

56. During the inspection of the Canton facility in September 1996 it was determined that Ashland had violated OAC Section 3745-21-09(T)(1)(e) and Ohio Permit P013 because tags identifying leaking valves did not clearly indicate the date the leak was detected.

57. During the inspection of the Canton facility in

September 1996, it was determined that Ashland had violated OAC Section 3745-21-09(T) (1) (d) and Ohio Permit P013 by failing to clearly mark certain valves in gas service.

58. During the inspection of the Canton facility in September 1996, it was determined that Ashland had violated 40 C.F.R. §§ 60.482-6(a) (1) and 60.592(a) by failing to place secondary closures such as caps, blind flanges, plugs or second valves on two open-ended valves in the isomerization unit.

59. From October 1 to December 31, 1993, Ashland failed to maintain and operate a continuous emissions monitor on its fluid catalytic cracking unit in violation of 40 C.F.R. §§ 60.13(e) and 60.105(a) (5).

THE CATLETTSBURG FACILITY

60. On June 6, July 8 and 9, and October 3, 1996, Ashland's sulfur recovery unit ("SRU") released emissions in excess of its emission limit of 250 ppm and failed to report the emissions to the Kentucky Division for Air Quality in violation of 40 C.F.R. § 60.105(a) (2), 401 KAR 50:055, and Kentucky Permit 0-93-016.

61. From 1995 to the present, the amount of uncontrolled benzene in Ashland's waste streams was 32 Megagrams (Mg) and reached 38.3 Mg in 1996. Both amounts were in violation of the annual limit of 6 Mg. 40 C.F.R. § 61.342(e).

62. From 1996 to the present, Ashland's benzene recovery unit released a waste stream containing an average concentration of 18.5 ppm in violation of the standard of 10 ppm. 40 C.F.R. § 61.348(a) (1).

63. Ashland violated 40 C.F.R. § 61.357(d) (8) by failing to

report in its 1996 annual summary all monitoring inspections which detected benzene emissions or could result in benzene emissions.

64. From 1995 to the present, Ashland failed to properly monitor carbon canisters located on its benzene recovery unit in violation of 40 C.F.R. § 61.354(d).

65. Kentucky Air Regulation, 401 KAR 61:045, provides that any oil-effluent water separator shall be equipped with a floating roof or shall be equipped with a vapor recovery system. Furthermore, 401 KAR 61:045 requires that a floating roof be equipped with a closure seal or seals to close the space between the roof edge and the separator wall.

66. During EPA's inspection conducted from October 29, 1996 to November 8, 1996, it was determined that Ashland failed to equip the middle of three oil-effluent water separators with a floating roof that provide appropriate seals and closure to the separator wall in violation of 401 KAR 50:055 and 61:045.

✓ THE ST. PAUL PARK FACILITY

67. From April 7, 1993 to the present, Ashland failed, in violation of 40 C.F.R. § 61.355(a)(1)(iii) and Minnesota Administrative Rule 7011.9930, to include all appropriate facility waste streams in calculating the facility's total annual benzene quantity.

68. From 1988 to the present, Ashland failed, in violation of 40 C.F.R. § 60.692-2 and Minnesota Administrative Rule 7011.1435(C), to periodically monitor drains in affected individual drain systems to insure that vapor seals were in place

and failed to submit initial and subsequent semi-annual reports certifying compliance and completion of inspections of the affected individual drain systems.

69. The allegations presented above evidence violations of the CAA which subject Ashland to penalties of up to \$25,000 per day per violation for violations which occurred prior to January 30, 1997. 42 U.S.C. § 7413(b)(2). For violations thereafter, Ashland is subject to penalties per violation of up to \$27,500 per day. 28 U.S.C. § 2461; 40 C.F.R. Part 19. Ashland's violations further subject it to injunctive relief. 42 U.S.C. § 7413(b).

THE CLEAN WATER ACT - STATUTORY AND REGULATORY BACKGROUND

70. Section 301(a) of the Clean Water Act ("the CWA"), 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person into navigable waters, except in compliance with the Act. The discharge of pollutants may be authorized by the terms and conditions of a National Pollution Discharge Elimination System ("NPDES") permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

71. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), provides that the administrator of EPA may issue an NPDES permit which authorizes the discharge of any pollutant directly into navigable waters of the United States, but only in compliance with the applicable requirements of Section 301 of the CWA, 33 U.S.C. § 1311, and such other conditions as the Administrator determines are necessary to carry out the provisions of the Clean Water Act.

72. The Commonwealth of Kentucky and the states of Ohio and Minnesota are authorized by the Administrator of EPA, pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), to administer an NPDES permit program for discharges into navigable waters within their respective jurisdictions. See 39 Fed. Reg. 26061 (1974); 48 Fed. Reg. 45597 (1983); 39 Fed. Reg. 26061 (1974).

73. Pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), the Administrator of EPA may commence a civil action for appropriate relief when any person is in violation of, inter alia, Section 301 of the CWA, 33 U.S.C. § 1311, or any permit condition or limitation implementing any of such section in an NPDES permit that is issued by EPA or by a state under Section 402 of the CWA, 33 U.S.C. § 1342. Such appropriate relief includes a permanent or temporary injunction.

74. Pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d), any person who violates Section 301 of the CWA, 33 U.S.C. § 1311, or who violates any condition or limitation in an NPDES permit implementing any of such sections in a permit that is issued by EPA or by a state under Section 402 of the CWA, 33 U.S.C. § 1342, shall be subject to a civil penalty not to exceed \$25,000 per day for each violation. Violations which occur after January 30, 1997 are subject to a civil penalty not to exceed \$27,500 per day per violation. 28 U.S.C. § 2461; 40 C.F.R. Part 19. Section 309 further provides that the United States may seek injunctive relief for violations of the CWA. 33 U.S.C. § 1319(b).

The Ohio NPDES Permit

75. On September 28, 1995, the Ohio Environmental Protection Agency ("OEPA"), under the authority of Section 402(b) of the CWA, 33 U.S.C. § 1342(b), re-issued NPDES permit number OH0005657 (the "Ohio Permit"), establishing effluent limitations and other requirements for Ashland's Canton, Ohio, facility. This permit became effective on November 1, 1995, and will expire on March 31, 2000.

76. The Ohio Permit authorizes the discharge of treated wastewater from Ashland's Canton Facility Outfall 001 ("Outfall 001") into Hurford Run in accordance with effluent limitations, monitoring requirements and other conditions specified in the permit. Refinery process wastewater and storm water run-off are discharged from Outfall 001 after treatment.

The Kentucky NPDES Permit

77. On October 1, 1983, EPA approved the State of Kentucky, pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b), to administer an NPDES permit program for discharges into navigable waters within its jurisdiction.

78. On June 11, 1996, the KYDEP, under the authority of Section 402(b) of the CWA, 33 U.S.C. §1342(b), re-issued NPDES permit number KY000038 (the "Kentucky Permit"), establishing effluent limitations and other requirements for the Ashland facility. This permit became effective on August 1, 1996, and will expire on July 31, 2001. NPDES permit number KY000038 was previously adopted on November 1, 1989, and contained an expiration date of October 31, 1994. This permit was subsequently modified, with the last modification occurring on

April 27, 1993 and remaining in effect until August 1, 1996.

79. The Kentucky Permit authorizes the discharge of wastewaters from the Ashland refinery at 25 outfalls in accordance with effluent limitations, monitoring requirements and other conditions specified in the permit. All 25 outfalls are "point sources" within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

The Minnesota NPDES Permit

80. On December 29, 1995, the Minnesota Pollution Control Agency ("MPCA"), under the authority of Section 402(b) of the CWA 33 U.S.C. § 1342(b), re-issued NPDES permit number MN0000256 (the "Minnesota Permit"), establishing effluent limitations and other requirements for Ashland's St. Paul Park, Minnesota, facility. This permit became effective on December 29, 1995, and will expire on September 30, 2000.

81. The Minnesota Permit authorized the discharge of treated process wastewater, storm water runoff, water from french drains used to collect seepage at the site, hydrostatic water, ground water, re-circulated cooling water, and boiler blowdown from St. Paul Park Facility Outfalls 010 and 020 ("Outfalls 010 and 020") into the Mississippi River in accordance with effluent limitations, monitoring requirements and other conditions specified in the permit.

The Oil Pollution Act of 1990

82. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), as amended by the Oil Pollution Act of 1990 ("OPA"), prohibits the discharge of oil or hazardous substances into or upon the

navigable waters of the United States or the waters of the contiguous zone. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant except in compliance with the CWA.

83. Section 311(b)(7)(A), 33 U.S.C. § 1321(b)(7)(A), authorizes the Administrator to collect a civil penalty of up to \$25,000 per day of violation or up to \$1,000 per reportable quantity ("RQ") of hazardous substances discharged in violation of Section 311(b)(3).

84. 40 C.F.R. § 110.9 provides: "As provided in section 311(b)(3) of the Act, no person shall discharge or cause or permit to be discharged into or upon the navigable waters of the United States or adjoining shorelines ... any oil in such quantities as may be harmful as determined in § 110.3..." 40 C.F.R. § 110.3 states that discharges of oil that "(a) [v]iolate applicable water quality standards, or (b) [c]ause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines ..." may be harmful to the public health or welfare of the United States.